



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Chicago Graystone
DOCKET NO.: 07-23223.001-C-1 through 07-23223.004-C-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Chicago Graystone, the appellant, by attorney Patrick J. Cullerton of Thompson Coburn LLP, in Chicago, and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
07-23223.001-C-1	14-29-410-040-1001	10,304	48,240	\$58,544
07-23223.002-C-1	14-29-410-040-1002	3,558	20,193	\$23,751
07-23223.003-C-1	14-29-410-040-1003	3,593	20,193	\$23,786
07-23223.004-C-1	14-29-410-040-1004	4,015	23,559	\$27,574

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2006 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of a four-story mixed-use commercial and residential building with 7,504 square feet of gross building area. The building was constructed in 1997 and features an office with apartments above. The property has a

3,175 square foot site and is located in Chicago, Lakeview Township, Cook County. Parcel number 14-29-410-040-1001 is classified as a class 5-99 property under the Cook County Real Property Assessment Classification Ordinance (hereinafter "Ordinance") and the remaining three parcels are classified as Class 2-99 units under the Ordinance.

The appellant through counsel made a contention of law regarding improper classification of the subject property under the Ordinance and also arguing overvaluation based upon the income of the subject property as outlined in counsel's brief. As to the classification issue, the appellant contends the property consists of one class 5-99 commercial unit and three class 2-99 residential condominium units. Based on the contention of actual use, the appellant seeks to have a 16% level of assessment applied to the three residential units in the building.

For the income approach to value in the brief, counsel for the appellant outlined the subject's purported annual income. The first floor unit is owner occupied; Unit 2 is subject to a non-arm's length lease which does not reflect market rents. The brief further outlines the appellant's opinion of gross rental rates that could be achieved and the current apartment income. Expenses were reportedly stabilized at 30% of the average income along with reserves resulting in net operating income for the subject of \$87,892. A capitalization rate was reportedly developed using the band of investment theory resulting a rate of 9.5% and a tax load of 2.59% resulting in a loaded capitalization rate of 12.09% which when applied to the net operating income resulted in a market value under the income approach of \$726,977.

In addition, the appellant contends assessment inequity as a basis of the appeal. In support of this argument the appellant submitted information on five equity comparables.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$199,465. The subject's assessment reflects a market value of \$931,857 or \$124.18 per square foot of building area, land included, when applying the respective Ordinance levels of assessment of 16% and 38% as warranted.

The board of review submitted a memorandum from Analyst Matt Panush who reported the subject four-unit condo building is classified as a Class 5-99 unit for parcel number -1001, but the three remaining parcels are classified as residential 2-99 units. The board of review further notes that there has been no sale of any unit in the building for ten years and "no income and expense evidence has been submitted concerning the commercial unit."

Based on this evidence and argument, the board of review requested confirmation of the subject's assessment.

Conclusion of Law

As part of the appeal, the appellant through counsel presented an income approach to value using the subject's actual income and expenses that were largely impacted by the owner-occupied commercial unit. The Board finds this argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses unconvincing and not supported by evidence in the record. "Each appeal shall be limited to the grounds listed in the petition filed with the Board. (Section 16-180 of the [Property Tax] Code)" 86 Ill.Admin.Code §1910.50(a). In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate through any type of expert opinion or documentation that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant's counsel attempted, one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant's legal counsel did not provide such evidence; therefore, the Property Tax Appeal Board gives this purported argument no weight.

The Board further finds problematic the fact that appellant's counsel developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion testimony of value for that client's property.

The appellant argued the classification of the subject improvement was in error in that the subject qualified as both a Class 5-99 and a Class 2-99 property. The board of review contended that the subject property is already classified as both a Class 5-99 and Class 2-99 property. The appellant was informed of this argument and did not refute the assertion. On this limited record, the Board finds that the subject property is correctly classified as both a Class 5-99 and a Class 2-99 property and no change in classification is warranted.

The taxpayer also contends assessment inequity as a basis of the appeal. When unequal treatment in the assessment process is the basis of the appeal, the inequity of the assessments must be proved by clear and convincing evidence. 86 Ill.Admin.Code §1910.63(e). Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of not less than three comparable properties showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property. 86 Ill.Admin.Code §1910.65(b). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The board of review did not submit any evidence establishing equity. The Property Tax Appeal Board finds the range established by the most similar comparables contained in this record is \$9.22 and \$12.47 per square foot of building area. The subject's improvement assessment of \$23.72 per square foot of building area is above the two most similar comparables in the record.

The Property Tax Appeal Board has examined the information submitted by the appellant and finds, based on this limited evidence that was not refuted, a reduction in the subject's improvement assessment is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



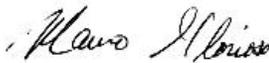
Chairman



Member



Member



Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: July 18, 2014



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.